IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 2135 of 1995

Between:

Chitikela Atchutaramaiah, S/o. Late Sitharama Murthy.
R/o. Narsipatnam, Visakhapatnam.

..... PETITIONER

AND

The Revenue Divisional Officer, Narsipatnam Division,
O/o. The Sub-Collector. Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the impugned action of the respondent herein in not extending the benefits of paying enhanced compensation under Sec. 28-A of the Land Acquisition Act on par with the claimants in O.P.No.43/89 to 47/89 and on par with the enhanced compensation granted by the learned subordinate Judge, Chodavaram in O.P.No. 43/89 to 47/89 for the lands acquired by the Spl. Deputy Collector cum Land Acquisition Officer for Y.L.M.C., Anakapalle, belongs to the petitioner's father situated at Sy.No. 43/1 and 41/5 A.2 to total extent of Ac. 2.73 cents at PAmulawaka, Block No. 2 as illegal, arbitrary and violative of Art. 14 of Constitution of India, by issuing a writ, order or direction in the nature of Writ of Madamus, and may be further directed the respondents to pay enhanced compensation under Sec. 28-A of L.A. Act to the petitioner for the lands mentioned supra, and pass

Counsel for the Petitioner: MR.Y.RAMA RAO

Counsel for the Respondent No.: GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

This writ petition is filed praying for a direction to the respondent to pay enhanced compensation to the petitioner in respect of the land in an extent of Ac.2-73 cents in Sy.No.43/1 and 41/5 of Pamulawaka village, Kotauratla Mandal, Visakhapatnam District, acquired for the purpose of Y.L.M.C. project, under Section 28-A of the Land Acquisition Act, 1894 (for short 'the Act') as per the judgment of the Court of the Subordinate Judge, Chodavaram in O.P.Nos.43 to 47 of 1989.

According to the petitioner, his father is the owner of land mentioned above, the same was acquired for the purpose of Y.L.M.C. project, an awarded was passed fixing the compensation at Rs.12,000/- per acre for dray land and Rs.20,000/- per acre for wet land and accordingly the compensation was received by his father under protest. Thereafter, after coming to know about the judgment of the Court of the Subordinate Judge, Chdavaram dated 3-10-1992 enhancing the compensation to Rs.32,600/- per acre in O.P.Nos.43 to 47 of 1989 preferred by the other co-owners of the lands acquired under the same notification, the petitioner made application dated 8-11-1993 through his advocate to the respondent to re-determine the compensation under Section 28-A of the Act. As the same has not been considered, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

It is submitted by the learned Government Pleader for Land Acquisition that the

application under Section 28-A of the Act has to be made within three months from the date of the judgment of the civil court and as the application in the instant case was not filed within the stipulated time, the same was not considered and therefore, the writ petition is liable to be dismissed.

Admittedly, the award in O.P.Nos.43 to 47 of 1989 enhancing the compensation in respect of the lands in question was passed by the court of the Subordinate Judge, Chodavaram on 3-10-1992 and the application for re-determination of compensation under Section 28-A of the Act was made by the petitioner on 8-11-1993.

It is pertinent to extract the relevant portion of Section 28-A of the Act here:

Section 28-A: Re-determination of the amount of compensation on the basis of the award of the Court:

Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section-11, the persons interested in all the other lands covered by the same notification under Section 4 sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the Court, require the amount of compensation payable to them may be re-determined on the basis of the compensation awarded by the Court. Provided that in computing the period of three months within which the application to the Collector shall be made under this sub-section, the date on which the award was pronounced and the time requisite for obtaining the copy of the award shall be excluded.

Admittedly, in the present case, the award was passed by the Civil Court on 3-10-1992 and the application was made on 8-11-1993. There is no averment in the affidavit filed in support of the writ petition with regard to the time taken for obtaining copy of the award of the court and the reasons thereof for the delay in not making the application under Section 28-A of the Act within the stipulated time.

Therefore, I see no merits in this writ petition and the same is accordingly dismissed. No costs.

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18-8-2004

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To

1) The Revenue Divisional Officer, Narsipatnam Division,
O/o. The Sub-Collector. Visakhapatnam.

2. Two C.Cs. to G.P. for Land Acquisition, High Court Buildings (O.U.T)

3. Two C.D. copies